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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,497	02/28/2000	ALEXANDER VAN DER VEKENS	P00,0062	9888
7590	02/03/2004		EXAMINER	
Morrison & Foerster LLP 1650 Tysons Boulevard Suite 300 McLean, VA 22102			WANG, LIANG CHE A	
			ART UNIT	PAPER NUMBER
			2155	
			DATE MAILED: 02/03/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/486,497	VAN DER VEKENS, ALEXANDER <i>PRE</i>
	Examiner Liang-che Alex Wang	Art Unit 2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 December 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 3-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 3-8 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 2/14/03 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 3-8 have been examined.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claim 3, 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunn et al., US Patent Number 6,118,780, hereinafter Dunn.

4. Referring to claim 6, Dunn has taught a method in a intelligent communication network

for the negotiation of connection parameters between at least one communications terminal and at least one communications server (Col 1 lines 59-63), comprising:

implementing the negotiation of quality of service parameters (Col 4 lines 41-45) before setup of a connection with a dedicated network element (item 14 in figure 3A, connection between user and SCP is not yet setup at this point, therefore the negotiation occurs before setup of a connection,) which differs from the communication server (SCP differs from the server shown on figure 3);

transmitting a service request from the communications terminal to the communications server to the network elements via an exchange (Col 3 lines 7-11);

entering an address of the service provider and the quality of service parameters of the connection into a data structure pertaining to the service request by the network element (Col 4 lines 61-65, user's profile (data structure) which include the quality of service and service provider is being updated (or stored) in the SCP);

communicating the quality of service parameters for the connection setup to the communication server (Col 5 lines 29-33);

the negotiation of quality of service parameters (Col 4 lines 41-45) occurs before setup of a connection with the network element (item 14 in figure 3A, connection between user and SCP is not yet setup at this point, therefore the negotiation occurs before setup of a connection.)

5. Referring to claim 7, Dunn has further taught when a new service is setup in the communication network, values of the quality of service parameters are communicated to the network element and stored therein (Col 4 lines 61-65);
6. Referring to claim 3, Dunn has further taught wherein the communication network is a broadband communication network (Col 4 lines 1-2), whereby the quality of service parameters is the bandwidth made available (Col 1 lines 59-61.)
7. Referring to claim 5, Dunn has taught an apparatus for negotiating connection parameters in an intelligent communication network comprising:
  - a storage device (item 15, Figure 1 and 3A) for storing connection parameters about connection and service providers (Col 3 lines 7-14);
  - a first unit (item 14) for evaluating the service call (Col 3 lines 10-11, processing the call is considered as evaluating the call);

a second unit (SSP Col 3 lines 9) for forwarding the modifies service call to the service provider (Col 3 lines 16-23);

the negotiation of quality of service parameters (Col 4 lines 41-45) occurs before setup of a connection with the network element (item 14 in figure 3A, connection between user and SCP is not yet setup at this point, therefore the negotiation occurs before setup of a connection.)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn in views of Casey, III et al., US Patent Number 5,371,782, hereinafter Casey. Dunn has further taught selecting a quality of service demanded by a service user (Col 1 lines 59-63, and Col 4 lines 39-41).

Dunn has not taught selecting the service provider depending on the quality of service demanded by a service user.

However, Casey has taught a method for selecting a preferred service provider (see title and Col 1 lines 62- Col 2 lines 4)

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of such that to select the service provider depending on the quality of service demanded by a service user.

A person with ordinary skill in the art would have been motivated to make the modification to Dunn because Casey has taught that there are many service providers are expected to provide carrier server for clients (Col 1 lines 62-64,) and Dunn's system is giving the user an option to choose the best quality of service that is available.

Combining Dunn and Casey would allow the users to have a wider range of choices of service.

10. Referring to claim 8, Dunn has further taught wherein the network selects the service provider (Col 1 lines 53-63, user selects the service and user is an element within the network. Also see rejection to claim 4.)

### **Conclusion**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liang-che Alex Wang whose telephone number is (703) 305-8159. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T Alam can be reached on (703)308-6662. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications.

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13. Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Liang-che Alex Wang *fw*  
January 29<sup>th</sup>, 2004

*M. Alam*  
HOSAIN ALAM  
SUPERVISORY PATENT EXAMINER